



1 JESSE ROSS #1095756

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5 UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA

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8 JESSE ARON ROSS,

9 Plaintiff,

10 -VS-

11 BRIAN SANDOVAL et al.,

12 Defendants.

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16 Comes now above named plaintiff, appearing pro-
 17 se, to respectfully request the court consider
 18 the following Legal Brief in support of plaintiff's
 19 Second Amended Complaint ("SAC").

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Table of Authorities First cited on page

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| 2 | ① Johnson-v- DUFFY 588 F.2d 740 9 th Cir 1978 | 2 |
| 3 | ② Colwell-v- Bannister 763 F.3d 1060 9 th Cir 2014 | 3 |
| 4 | ③ Hartman-v- Cal. Dept. of Corr. & Rehab. 707 F.3d 1114 9 th Cir 2013 | 3 |
| 5 | ④ Webb-v- Sloan 330 F.3d 1158 9 th Cir 2003 | 3 |
| 6 | ⑤ Canton-v- Harris 489 U.S. 378, 109 S.Ct. 1197 (1988) | 3 |
| 7 | ⑥ Wilkerson-v- Austin 545 U.S. 209, 125 S.Ct. 2384 (2005) | 5 |
| 8 | ⑦ Toussaint-v- McCarthy 801 F.2d 1080 9 th Cir. 1986- | 4 |
| 9 | ⑧ Spain-v- Procurier 600 F.2d 189 9 th Cir. 1979 | 4 |
| 10 | ⑨ Hearn-v- Terhune 413 F.3d 1036 9 th Cir. 2005 | 4 |
| 11 | ⑩ Keenan-v- Hall 83 F.3d 1083 9 th Cir 1996 | 4 |
| 12 | ⑪ Neal-v- Shimoda 131 F.3d 818 9 th Cir 1997 | 5 |
| 13 | ⑫ Sandin-v- Conner 515 U.S. 472, 115 S.Ct. 2293 (1995) | 5 |
| 14 | ⑬ Brown-v- Or. Dept. of Corr. 751 F.3d 983 9 th Cir 2014 | 5 |
| 15 | ⑭ Battle-v- Anderson 564 F.2d 388 9 th Cir (1974) | 5 |

Section 1 Suits against Supervisory Staff For Injunctive relief.

A person subjects another to the deprivation of a constitutional right within the meaning of § 1983, IF the official does an affirmative act, Participates in another's Acts OR omits to perform an act which he is legally required to do, causes the deprivation of which complaint is made, The requisite causal connection can be established not only by some kind of direct personal participation, but also by setting in motion a series of Acts by others which the Actor knows or reasonably should know would cause others to inflict the injury, commission to Act in violation of the duties imposed -- by A statute -- thus may subject the official to Liability under 1983 (see Johnson v. Duffy 588 F.2d 740, at 743, 44 9th Cir 1978).

However, The 9th Cir Held in 2014 and 2013 That:

Policy makers such as A corrections Director or Warden Are proper defendants in a § 1983 case because Plaintiff seeking injunctive relief Against the state is NOT required to Allege A named official's personal involvement in the Acts or omissions Amounting to the constitutional violations, Rather Plaintiff need only identify the Law or policy

1
2 challenged as A constitutional violation, and name
3 the official within the entity who can appropriately
4 respond to injunctive relief. (See *Colwell v-*
5 *Bannister* 763 F.3d 1060 @ 1071 9th cir. 2014, and
6 *Hartmann v- Cal. Dept. of Corr. & Rehab.*
7 *707 F.3d 1114 @ 1127 9th cir 2013;*)
8

9 Defendants LAXALT, SANDOVAL, DZURENDA,
10 ARANAS, Williams are senior supervisory
11 Policymakers, Therefore proper defendants.
12

13 Plaintiff is Challenging Policies, Customs and practices
14 As unconstitutional, As they are longstanding and
15 pervasive. *Webb v- Sloan* 330 F.3d 1158 @ 1164 9th
16 cir. 2003) -
17

18 Section 2. Suits Against Supervisory officials For
19 Failing to train.
20

21 In CANTON The US Supreme court held that a
22 Failure to train Police officers may serve as the
23 Basis For Liability under § 1983, where Failure
24 to train Amounts to deliberate indifference to the rights of
25 of persons whom the police come into contact with.
26 See *CANTON v- HARRIS* 489 U.S. 378, 109 S.Ct
27 1197 (1984)
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1 section 3 STATE created statutes & Policies
 2 that give rise to a Liberty interest requiring
 3 due process.

4
 5 In Count 8 of the "SAC" Plaintiff Alleges that
 6 A Prison policy (OP 717) has the need for due
 7 Process before the state may deprive him of
 8 the privileges/rights the policy gives Plaintiff.
 9 OP 717 gives Plaintiff [his constitutionally guaranteed
 10 right] to access to the Prison yard for four hours
 11 per week "SAC" pg 6-L. The Supreme Court and
 12 the 9th Circuit have defined Both the definition
 13 of the Liberty interest and the process due required,
 14 for Plaintiff's claim.

15 First Plaintiff believes he has a protected Liberty
 16 interest in access to yard. (Toussaint v. McCarthy
 17 397 F. Supp 1388, 1402, [ND-CA 1984] - 801 F.2d 1080
 18 [9th Cir 1986]; Spain v. Procunier 600 F.2d 189, [9th Cir
 19 1979] Hearnes v. Terhune 413 F.3d 1036 [9th Cir. 2005]
 20 Keenan v. Hall 83 F.3d 1083 9th Cir 1996.

21 However In Arguendo even if These cases don't
 22 create the Liberty interest, Then The excessively
 23 Harsh Atypical conditions at HDSP so exceed
 24 the expected sentence That they Alone do.

25
 26 The Due Process clause of the 14th Amendment
 27 Prohibit states from depriving individuals of Life
 28 Liberty or property without due Process of Law.
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1 To invoke the due Processes Procedure

2 Protections, A Plaintiff must First Identify the
3 protected Liberty interest. that is at stake.

4 Wilkinson-v-Austin 545 U.S. 209 @ 221, 125 S.Ct
5 2384 [2005]. Liberty interests may Arise from the
6 Constitution or from expectation created by
7 State Statutes and Prison regulations. I.D.;
8 Neal-v-Shimoda 131 F.3d 818 @ 827 [9th Cir. 1997].

9
10 In the prison setting, A Liberty interest arise from
11 the Constitution when the conditions of confinement
12 exceeds the sentence in such an unexpected
13 manner as to give rise to protection by the Due
14 Process clause of its own force (~~Sandin-v-Conner~~;
15 (see Sandin-v-Conner 515 U.S. 472 @ 485 11 S.
16 Ct 2293 [1995]). Courts Analyze Procedural
17 Due Process claim in two Prongs (1) The Court must
18 determine whether the plaintiff possessed A Protected
19 Liberty interest (2) Then the court compares the
20 required Level of Process with the procedures
21 the Defendant(s) observed. Brown-v. OR. Dep't
22 of Corr. 751 F.3d 983 @ 987 [9th Cir 2014]
23 In count 8 "SAC" Plaintiff believes he has met
24 the Pleading Standard.

25 Section 4 Humane treatment of offenders.
26 In Battle-v-Anderson 564 F.2d 388 10th Cir
27 The court noted that the 8th Amendment
28 1974

1 is intended to protect inmates from a
2 environment where degeneration is probable and
3 self-improvement unlikely because of the
4 conditions existing which inflict needless
5 suffering either physical or mental.
6 For those reasons Court 13 JLED should
7 Proceed.

8
9 Respectfully Submitted.

10
11 *Jesse Ross*

12 I declare under penalty of perjury the foregoing
13 is true & correct to the best of my personal
14 knowledge NRS 53.045 28 USC section
15 17646

16
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